

FILED: August 3, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1419
(1:22-cv-00876-AJT-JFA)

ISRAEL ALVARADO; STEVEN BARFIELD; WALTER BROBST; JUSTIN BROWN; DAVID CALGER; MARK COX; JACOB EASTMAN; THOMAS FUSSELL; NATHANAEL GENTILHOMME; DOYLE HARRIS; JEREMIAH HENDERSON; ANDREW HIRKO; KRISTA INGRAM; RYAN JACKSON; JOSHUA LAYFIELD; JAMES LEE; BRAD LEWIS; ROBERT NELSON; RICK PAK; RANDY POGUE; GERARDO RODRIGUEZ; PARKER SCHNETZ; RICHARD SHAFFER; JONATHAN SHOUR; JEREMIAH SNYDER; DAVID TROYER; SETH WEAVER; THOMAS WITHERS; JUSTIN WINE; MATTHEW WRONSKI; JERRY YOUNG; BRENTON C. ASBURY; JORDAN BALLARD; CHAD BOOTH; JEREMIAH BOTELLO; CLAYTON DILTZ; MICHAEL HART; JACOB LAWRENCE; LANCE SCHRADER; JONATHAN ZAGDANSKI,

Plaintiffs - Appellants,

v.

LLOYD J. AUSTIN, III, in his official capacity as Secretary of Defense, U.S. Department of Defense; FRANK KENDALL, in his official capacity as Secretary of the Air Force, Department of the Air Force; CARLOS DEL TORO, in his official capacity as Secretary of the Navy, Department of the Navy; CHRISTINE WORMUTH, in her official capacity as Secretary of the Army, Department of the Army; XAVIER BECERRA, in his official capacity as Secretary, U.S. Department of Health and Human Services; ROBERT CALIFF, M.D., in his official capacity as Commissioner of the U.S. Food and Drug Administration; ROCHELLE WALENSKY, in her official capacity as Director, Centers for Disease Control and Prevention,

Defendants - Appellees.

O R D E R

Upon review of the submissions relative to the motion to dismiss, the court grants the motion and dismisses this appeal as moot. The court vacates the district court's orders denying the preliminary injunction, dismissing the complaint, and denying reconsideration and remands the case to the district court with directions to dismiss as moot. *See United States v. Munsingwear, Inc.*, 340 U.S. 36, 39–40 (1950); *Hirschfeld v. Bureau of Alcohol, Firearms, Tobacco & Explosives*, 14 F.4th 322, 327–328 (4th Cir. 2021).

The motion for oral argument is denied.

Entered at the direction of the panel: Judge Gregory, Judge Harris, and Judge Rushing.

For the Court

/s/ Patricia S. Connor, Clerk